

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8062 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.M.SONI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

LUHANA VIRENDRA ALIAS POONAM NARANDAS

Versus

SHRI PRAVIN MEHTA

Appearance:

MR ZUBIN F BHARDA for Petitioner

Mr.P.S.Champaneri, A.G.P. for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.M.SONI

Date of decision: 12/04/96

ORAL JUDGEMENT

This is a petition under article 226 of the Constitution of India whereby the legality , validity and impropriety of the order of externment, dated 30.1.95 passed by the Sub-Divisional Magistrate, Junagadh in externment case No. 4/95 and confirmed in appeal by the State Government by its order dated 29-7-95 is under challenge.

2. Brief facts leading to the filing of the present petition are as under:

That a notice under section 56(b) of the Bombay Police Act was served on the petitioner as to why he should not be externed for a period of two years from the district of Junagadh and contiguous districts. The grounds alleged for the passing of the impugned order are that (1) as many as two criminal offences have been registered against the petitioner in which the allegation is that he is a head strong person and he is indulging in illegal activities etc. In the notice it is alleged that there are allegations against the the petitioner to the effect that he is defamative and of quarrelsome temperament and head strong. He is harassing the innocent persons by taking the law in his hands and creates an atmosphere of tension and terror in public by using criminal force. He is also harassing ladies in public. He is also giving criminal intimidation to the public and creating fear and danger on daily routine life. His anti social activity is likely to affect the public life adversely. (2) He is engaged in anti-social activity in Jawhar road, Kalwa chowk, Azad chowk, Diwan chowk, Railway station and Majewadi Darwaja area of Junagadh town. He is extracting money from the citizens by giving threat of assault. He is putting the life and property of the public in danger and thereby he has made the life of citizens miserable. (3) He is busy in indulging into the activities of threatening and pressurising the people in public with weapons and he creates danger and terror . All these three activities though stated do not refer to the time and place of the acts in two except one. Learned advocate for the petitioner contended that in view of these facts, the notice is vague and therefore, the order based on such notice and confirmed in appeal, is liable to be quashed and set aside. It was further contended that because of the vagueness, the petitioner detenu was not able to defend it properly by leading necessary evidence even if he had a desire to do so. He therefore, contended that the order should be quashed and set aside.

3. Learnted A.G.P. Mr. Champaneri fairly conceded that the grounds stated in the show cause notice are vague inasmuch as two of the grounds do not refer to the time and place of the activity and the third ground does not refer to the time of the activity. In view of this defect, the externee could not properly defend the case. Thus, there is non compliance of the principles of

natural justice inasmuch as the petitioner could not answer the vague show cause notice properly in order to defend the same and any order based on such notice is also bad.

4. In view of the above fact when the notice is vague the order based thereon is also bad and the confirmation of any such order is also bad. The order of externment is therefore, liable to be quashed and set aside and the same is accordingly quashed and set aside. In the result, the petition is allowed. Rule made absolute. No order as to costs.
for correction pl.see the original.
